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Before The
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Advanced Television Systems)
and Their Impact Upon the)
Existing Television Broadcast)
Service)

MM Docket No. 87-268

To: The Commission

OPPOSITION TO PETITION FOR RECONSIDERATION

The University of Houston System ("University"), licensee of noncommercial educational television station KUHT, Channel 8, Houston, Texas, by its counsel, hereby opposes the Petition for Reconsideration ("Petition") of the *Sixth Report and Order* in MM Docket No. 87-268, FCC 97-115 (released April 21, 1997) ("*Sixth R&O*"), filed June 13, 1997 by W. Russell Withers, Jr. d/b/a Withers Broadcasting Company of Texas ("Withers"). Withers proposes a change to the DTV Table of Allotments with respect to its TV Station KAVU-TV, Victoria, Texas, which change would conflict with KUHT's own proposal for DTV operations.

Station KUHT was the nation's first noncommercial educational television station. The University has operated station KUHT on Channel *8 at Houston since May of 1953, providing high quality educational, informational and cultural programming, including children's programming, to the Houston metropolitan area.

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The University looks forward to early activation of its DTV facilities for KUHT. However, on May 2, 1997, the University filed its own Petition for Reconsideration of the *Sixth R&O* insofar as the Commission allocated Channel *53 as the paired digital TV channel for KUHT's current Channel *8. As described more fully in the University's Petition, as supplemented, requiring the University to use Channel *53 would cause substantial and unnecessary hardship. The University stated its belief that Channel *9 could be used instead. In order to clear the way for the substitution of Channel *9 for Channel *53 for KUHT, the University obtained and filed a letter from the licensee of Station KTRE, now operating on NTSC Channel 9 at Lufkin, Texas, consenting to KUHT's use of Channel *9 as its DTV allotment, with ERP of up to a maximum of 8.4 kw. KUHT has agreed to resolve interference problems that might result to KTRE as a result of KUHT's operation on Channel *9.

Withers operates Station KAVU-TV on NTSC Channel 25 at Victoria, Texas. In the *Sixth R&O*, the FCC allotted KAVU-TV a highly advantageous Channel 15 for DTV operations. Nevertheless, in its Petition, Withers seeks to have the FCC substitute Channel 9 for Channel 15 as the KAVU-TV DTV allotment. Because Stations KUHT and KAVU-TV would be short-spaced to each other if they operated on the same DTV channel, KAVU-TV's operation on Channel 9 could adversely affect KUHT's DTV operations on Channel *9.

There are a number of reasons why the University's request for Channel *9 at Houston should be preferred over Withers'.^{1/} Given the much larger size (in area and population) of the Houston metropolitan area as compared to the Victoria area, the University has a greater need for a modified channel that will provide superior propagation characteristics. Channel 15 (originally allotted to Withers) is far better than Channel *53 (originally allotted to the University) in this respect. In addition, the University, as a public TV licensee, is less able to activate an effective DTV station on its allotted Channel *53 than Withers, a commercial TV licensee, should be able to do on its allotted Channel 15. Both the construction and operational costs of a Channel *53 DTV station would be far in excess of that required to activate Channel 15.

There is another problem with Withers' proposal to use Channel 9 instead of Channel 15 for KAVU-TV. Use of Channel 9 in Victoria would be short-spaced to existing public TV station KLRN(TV) on Channel *9 in San Antonio, Texas.^{2/} Thus, operation of KAVU-TV's DTV facilities on Channel 9 would cause and receive interference to/from KLRN. Unlike the University's proposal to use Channel *9 in

^{1/} As noted in the University's own petition for reconsideration, the FCC's computer program that generated the DTV Table found Channel *9 to be the best channel for KUHT's use. The allotment was changed to Channel *53 manually by Commission staff in order to provide greater protection to Station KTRE in Lufkin. However, the concern over the short-spacing to KTRE has been obviated by the University's procuring of the consent of KTRE to the University's proposal to use Channel *9.

^{2/} The spacing between KAVU-TV and KLRN would be 184 km, far less than that required by the new DTV rules, and far less than the consented-to shortspacing of 215 km between KUHT and KTRE.

Houston, which was accompanied by engineering analyses, a commitment to operate in a non-interfering manner vis-a-vis KTRE , and the written consent of KTRE, Withers has not recognized, much less offered to take steps to ameliorate, the interference problem. Nor has Withers approached the licensee of the public TV station in San Antonio or obtained its consent. Indeed, as reflected by the attached letter from KLRN(TV), that station opposes the Withers proposal to use Channel 9. Clearly, the use of Channel 9 by KAVU-TV would not serve the public interest.

For the foregoing reasons, the University urges the FCC to reject the Withers Petition for the use of Channel 9 as the DTV allotment for KAVU-TV in Victoria, Texas.

Respectfully submitted,

UNIVERSITY OF HOUSTON SYSTEM

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July 18, 1997

P U B L I C T E L E V I S I O N



July 16, 1997

Federal Communications Commission
Washington, D.C.

Re: Opposition to Petition for Reconsideration by
W. Russell Withers, Jr. in MM Docket No. 87-268

Dear FCC:

Alamo Public Telecommunications Council ("Alamo") is licensee of public Television Station KLRN(TV), Channel 9, San Antonio, Texas. Alamo understands that W. Russell Withers, Jr., d/b/a Withers Broadcasting Company of Texas, licensee of Station KAVU-TV, Victoria, Texas, has filed a petition for reconsideration of the Sixth Report and Order in MM Docket No. 87-268, requesting that the FCC allot Channel 9 as KAVU's DTV channel, rather than Channel 15.

Alamo opposes the Withers petition. Station KAVU-TV is only 184 km from KLRN, which operates its NTSC station on Channel 9. Not only would KAVU-TV operating on DTV Channel 9 be substantially short-spaced to KLRN's NTSC station, it would also be short-spaced to KLRN's permanent digital station because Alamo intends, at the end of the digital transition, to return its DTV service to Channel 9 as provided by the Sixth Report and Order.

Alamo supports the opposition of the University of Houston System to the Withers petition and supports the University's request for the use of Channel *9 as its DTV allotment for KUHT in Houston. Alamo understands that this letter will be filed with the Commission by the University in connection with its opposition.

Respectfully submitted,

ALAMO PUBLIC TELECOMMUNICATIONS COUNCIL

by: 

Joanne Winik, President and General Manager

CERTIFICATE OF SERVICE

I certify that I have this 18th day of July, 1997, served copies of the foregoing "Opposition to Petition for Reconsideration" by First Class U.S. Mail or by hand delivery upon the following:

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A handwritten signature in cursive script, reading "Patricia A. Kelly". The signature is written in black ink and is positioned to the right of the address for Clay Pendarvis.

*denotes service by hand delivery